

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL NO. 3:01CR11-2

UNITED STATES OF AMERICA)
)
)
)
VS.)
)
)
TERRY W. STEWART)
)
_____)

ORDER

THIS MATTER is before the Court on a second remand from the United States Fourth Circuit Court of Appeals. **See *United States v. Stewart, 2007 WL 4561485 (4th Cir. Dec. 28, 2007)*.**

Pursuant to the Circuit's remand, and for all the reasons cited by the Court in the Order filed August 27, 2007, the Court finds that the Defendant has failed to establish excusable neglect for the late filing of his appeal of this Court's Order denying his motion to alter or amend the Court's Order denying reconsideration of his criminal judgment, and his appeal of this Court's Order denying his motion for adjustment of restitution payments. The length of the delay is prejudicial to the Government, the Defendant's delay and frivolous pursuit of these appeals impacts the judicial

proceedings, and the Court has previously found that the Defendant has failed to act in good faith. It was implicit in the previous August 27 Order that these factors were considered by the Court; however, the Court finds that the reason for Defendant's delay is nothing more than harassment of the judicial system.

IT IS, THEREFORE, ORDERED that the Defendant has failed to show excusable neglect or good cause for failing to timely appeal the rulings cited above.

The record, having been supplemented as directed by the Fourth Circuit, may now be returned to that Court for further proceedings.

Signed: January 4, 2008



Lacy H. Thornburg
United States District Judge

